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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE Mr. JUSTICE H.L. DATTU

WRIT PETITION No. 911/1993.

BETWEEN:

M.B. Gajinkar  
aged about 37 years,  
Clerk-cum- Coin Note  
Examiner Grade-II,  
Cash Department,  
Reserve Bank of India,  
Bangalore.

359  
... PETITIONER

(By Sri Vishnu D. Bhat, Adv.)

AND :

1. The Manager  
Reserve Bank of India,  
Bangalore.

2. The Governor  
Reserve Bank of India,  
(Central Office)  
Bombay.

... RESPONDENTS

(By Sri S.S. Ramdas, Adv.)

This writ petition is filed under Article 226 of the Constitution of India with a prayer to direct R-1 to grant accident leave to the petitioner and etc.

THIS writ petition coming on for hearing this day, the Court made the following;

### ORDER

Petitioner was working as a Clerk-cum- coin note examiner Grade II in the cash department of the Reserve Bank of India, Bangalore. According to

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him some time in the month of September 1990 he met with an accident inside the bank premises. In view of this accident he has stated that he had to undergo hospitalisation for treatment of several injuries caused.

Petitioner has also stated that because of hospitalisation and to recover from the injuries he had applied leave for nearly 134 days. Petitioner has also stated that he had applied for sanction of leave by enclosing a certificate issued by the Bank's medical officer. The request of the petitioner made in the said application has been rejected by the respondents by their letter dated 12.12.1990. The said order reads as under:

Please refer to your letter dated 1st October '90 requesting for the grant of accident leave for the period of your absence from 14th September to 27th October 1990. We advise that your request has been carefully examined by the Competent Authority but it is regretted that the same cannot be acceded to.

2. The period of absence has been regularised by sanction of sick leave.

Petitioner not being satisfied with the reply of the respondents had once again approached the respondents. The respondent bank by yet another

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order dated 21.01.1991 was pleased to reject the request of the petitioner for sanction of the accident leave. Aggrieved by that order petitioner had filed an appeal before the second respondent herein and the appeal came to be rejected by the respondents by their order dated 23.09.1992. The appellate authority while disposing off the appeal has observed as under:

Please refer to your letter dated 6th July 1992 enclosing a copy of your representation dated 15th July 1991 addressed to the Governor. We advise that Central Office have examined your request for grant of accident leave/reimbursement of medical expenses but regretted that their inability to accede to your request.

Petitioner is before this Court being aggrieved by the aforesaid orders.

Learned counsel appearing for the petitioner submits that under Regulation 95(A) of the Reserve Bank of India (Staff) Regulations 1948, petitioner is entitled for the accident leave. The request of the petitioner for accident leave could not have been rejected by the respondents by their impugned orders. Learned counsel appearing for the petitioner also submits that the orders made by the respondent bank is not only arbitrary but contrary

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to the regulation 95(A) of the Regulations.

Learned counsel appearing for the respondents would submit that the bank had to reject the request of the petitioner for grant of accident leave only on the ground that petitioner did not sustain the injuries during the course of employment and therefore the action of the respondents in rejecting his request for grant of accident leave is in accordance with regulation 95(A) of the Regulations. Secondly learned counsel contends that petitioner sustained injuries because of his own negligence and for that petitioner is not entitled for accident leave.

A reading of Regulation 95(A) of the Regulations would only indicate that accident leave may be granted to an employee who sustained an injury in the course of his duties for the period for which leave is certified by bank's medical officer. In the instant case petitioner's claim is that he sustained injuries during the course of employment. Because of the injuries suffered by him he has to <sup>absolutely</sup> ~~obscure~~ from work for 134 days for which he is requesting the bank to sanction leave as accident leave as envisaged under the Regulations. Along with that request for grant of

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this leave petitioner has also enclosed the certificate of the bank's medical officer. The respondent bank in their orders dated 12.12.1990 and 21.01.1991 would only say that they have considered the request of the petitioner for grant of accident leave and the same cannot be acceded to. In their order they do not say that petitioner sustained injuries not during the course of employment or petitioner sustained injuries because of his own negligence. In my view this is an after thought. What is not said in the impugned order cannot be supplemented by the respondents at a later stage. The Supreme Court in the case of MOHINDER SINGH GILL VS. THE CHIEF ELECTION COMMISSIONER, NEW DELHI (AIR 1978 SC 851) was pleased to observe that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may by the time it comes to court on account of a challenge, get validated by additional grounds later brought out.

In my view the observations made by the Supreme Court in the aforesaid decision would fully

11

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apply to the fact situation in the instant case. At no point of time respondent bank had taken up the stand that petitioner did not suffer<sup>any</sup>~~ed~~ injuries during the course of employment or those injuries were suffered because of his own negligence. What is not said in the impugned orders in my view cannot be supplemented by the respondents by way of their objections.

In that view of the matter, impugned orders dated 12.12.1990 and 21.01.1991 and confirmed by the appellate authority by his order dated 23.09.1992 are quashed. Rule made absolute. Respondents are directed to reconsider the request of the petitioner for grant of accident leave as claimed by him in his representation dated 01.10.1990 in accordance with law as expeditiously as possible at any rate within three months from the date of receipt of a copy of this Court's order. Ordered accordingly.



Sd/-  
JUDGE

LRS/WP911.90/060698.